

**JAN 12 2006**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

MARIA DE LOURDES VALLEJO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-70975

Agency No. A75-669-913

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 9, 2006\*\*

Before: HUG, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Maria de Lourdes Vallejo, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals ("BIA") adopting and

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

affirming the decision of an immigration judge finding her ineligible for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We review questions of law de novo, *Martinez-Garcia v. Ashcroft*, 366 F.3d 732, 733 (9th Cir. 2004), and review factual findings for substantial evidence, *Nakamoto v. Ashcroft*, 363 F.3d 874, 881 (9th Cir. 2004). We deny the petition for review.

Vallejo conceded that a removal order was issued against her in 1998, and such an order renders her ineligible for cancellation of removal. *See* 8 U.S.C. § 1231(a)(5). Even if Vallejo was allowed to depart voluntarily, her continuous physical presence in the United States was broken, rendering her ineligible for cancellation of removal. *See Vasquez-Lopez v. Ashcroft*, 343 F.3d 961, 973-74 (9th Cir. 2003) (per curiam); *accord, Tapia v. Gonzales*, 430 F.3d 997, 1002 (9th Cir. 2005) (“To permit an alien who was removed or left pursuant to an administrative voluntary departure to continue to accrue physical presence would thwart Congress’s clear intent that such an alien be inadmissible for years following the date of his departure.”).

We deny as moot Vallejo’s motion for a stay of removal.

**PETITION FOR REVIEW DENIED.**